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SERVICE DATE – DECEMBER 14, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 659X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN ALLEGANY  
COUNTY, MD

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: December 13, 2005

CSX Transportation, Inc. (CSXT), filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon an 8.54-mile line of railroad on its Southern Region, Huntington Division East, Georges Creek Subdivision, between milepost BAI 27.0 near Morrison and milepost BAI 18.46 at the end of the track near Carlos, in Allegany County, MD. Notice of the exemption was served and published in the Federal Register on August 25, 2005 (70 FR 49974). The exemption was scheduled to become effective on September 24, 2005, unless stayed by the Board or a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) was filed by September 2, 2005.

On September 8, 2005, counsel for WMS, LLC (WMS), late-filed a formal expression of intent for WMS to file an OFA to purchase the entire line and requested that the time period for WMS to submit its OFA be tolled for 30 days. By decision served on September 23, 2005, WMS's late-filed notice of intent to file an OFA was accepted,<sup>1</sup> the time period for WMS to file an OFA was tolled until October 21, 2005, and the effective date of the exemption was further postponed until October 31, 2005.

On October 21, 2005, WMS timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the entire line for \$360,610. By decision served on October 26, 2005 (October 26 decision), WMS was found to be financially responsible and the effective date of the decision authorizing the abandonment was postponed to permit the OFA process to proceed.<sup>2</sup> The October 26 decision set November 21, 2005, as the deadline for either party to request the Board to establish terms and conditions for the sale of the line if WMS and CSXT could not agree on the purchase price.

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<sup>1</sup> This filing had the effect of automatically staying the effective date of the exemption for 10 days, until October 4, 2005. See 49 CFR 1152.27(c)(2)(i).

<sup>2</sup> Also on October 26, 2005, a decision was served granting WMS's motion for a protective order.

By letter filed on November 21, 2005, counsel for WMS advised the Board that WMS has agreed to accept the purchase price and terms offered by CSXT for the acquisition and operation of the line.

When a carrier and a person offering to purchase a line enter into an agreement for continued rail service, the Board is required to approve the transaction and dismiss the abandonment notice of exemption. See 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2). Accordingly, the sale will be approved and the notice of exemption will be dismissed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10904, WMS is authorized to acquire and operate the line.
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2), the notice of exemption is dismissed effective on the date the sale is consummated.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary